

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

WILLIAM SEQUEIRA	:	
	:	
v.	:	No. 98-cr-02-M
	:	
UNITED STATES OF AMERICA	:	

UNITED STATES' RESPONSE TO
ATTEMPT TO WITHDRAW NOTICE OF APPEAL

Petitioner filed a notice of appeal from this Court's ruling denying his motion under 28 U.S.C. § 2255. "At that moment, the district court was divested of jurisdiction regarding 'any matter touching upon, or involved in, the appeal.'" *United States v. George*, 841 F.3d 55, 71 (1st Cir. 2016) (collecting cases); accord *United States v. Sevilla-Oyola*, 770 F.3d 1, 13 n.22 (1st Cir. 2014). The fact that the First Circuit has not formally docketed the appeal yet does not alter this settled principle. Petitioner cites no case allowing for "withdrawal" of a notice of appeal in this context. His only options at this point are to (1) move the First Circuit to dismiss the appeal, and to file a second or successive petition under 28 U.S.C. § 2255, or (2) pursue the appeal.

UNITED STATES OF AMERICA

PETER F. NERONHA
UNITED STATES ATTORNEY

/s/Donald C. Lockhart
DONALD C. LOCKHART
Assistant United States Attorney
United States Attorney's Office
50 Kennedy Plaza, 8th Floor
Providence, RI 02903

(401) 709-5030

Donald.Lockhart2@usdoj.gov

CERTIFICATION OF SERVICE

On January 30, 2017, I caused this filing to be filed electronically and it is available for viewing and downloading from the ECF system.

Olin Thompson, Esq.
Assistant Federal Defender
Federal Defender Office
10 Weybosset Street, 3rd Floor
Providence, RI 02903

/s/ Donald C. Lockhart
DONALD C. LOCKHART
Assistant U.S. Attorney